

EXHIBIT 3

DEPOSITION OF SERGEANT MATTHEW MCCREA

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA
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ROY NELSON III, Successor-
in-Interest to Decedent ROY
NELSON; ORENELL STEVENS,
individually,

Plaintiffs,

vs.

CASE NO.:
3:16-cv-7222

CITY OF HAYWARD, a municipal
corporation; MICHELLE HALL, in her
individual and official capacity
as Police Officer for the CITY OF
HAYWARD; NATHANAEL SHANNON, in his
individual and official capacity
as Police Officer for the CITY OF
HAYWARD; MATTHEW MCCREA, in his
individual and official capacity
as Police Sergeant for the CITY OF
HAYWARD; JOHN PADAVANA, in his
individual and official capacity
as Police Officer for the CITY OF
HAYWARD and DOES 1-50, inclusive,
individually and in their official
capacity as police officers for
the City of Hayward,

CERTIFIED COPY

Defendants.

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DEPOSITION OF SERGEANT MATTHEW MCCREA

TUESDAY, DECEMBER 5, 2017

(CONFIDENTIAL Page 20, Line 20 to
Page 26, Line 18 are bound separately)

REPORTED BY: ANGELICA R. GUTIERREZ, CSR NO. 13292

1 had been called to have this person removed, which
2 later it was determined to be Mr. Nelson.

3 Q. So it wasn't your understanding at the time
4 that there was a request for a 5150 detention of
5 Mr. Nelson?

6 A. As the call unfolded, I heard the request for
7 a what's known as code two, which is an ambulance to
8 respond for a 5150 detention, and that's nothing
9 uncommon.

10 Q. Okay. So as you became -- I assume you were
11 listening to the radio traffic or reading your CAD for
12 further information?

13 A. Correct.

14 Q. Okay. And as time passed, you gathered more
15 information about the call, correct?

16 A. A little bit here and there, yes.

17 Q. But at some point you did end up responding to
18 the call, correct?

19 A. Only after Officer Shannon had requested my
20 presence.

21 Q. Okay. So Officer Shannon went over the radio
22 and asked for the sergeant to come to --

23 A. Asked for the supervisor.

24 Q. Okay. What was your understanding why you
25 were being summoned to the area?

1 A. Officer Shannon had said that he needed the
2 superior to respond as the Wrap, leg restraining
3 device, may need to be deployed.

4 Q. Okay. And based on my understanding, correct
5 me if I'm wrong, the supervisor would be the person who
6 had the Wrap in the vehicle; is that correct?

7 A. That's correct.

8 Q. Okay. And is the supervisor the only person
9 that is permitted to carry a WRAP device?

10 A. It's the only vehicles that have the WRAP are
11 the supervisor vehicle.

12 Q. So for -- in order for a patrol officer to get
13 a WRAP device, they would have to summon the sergeant
14 or an acting sergeant, correct?

15 A. They would need to summon the supervisor.

16 Q. I'm assuming that there are supervisors above
17 the level of sergeant who could also respond with the
18 WRAP device; is that correct?

19 A. Correct.

20 Q. Okay. But to your understanding, can anybody
21 below level of sergeant have a WRAP device in their
22 vehicle with the intention to use it?

23 A. Not with the intention to use it, no.

24 Q. What is the requirement from the supervisory
25 level of permission required to utilize the WRAP

1 device?

2 A. It's -- the reason that the sergeants have the
3 WRAP in their vehicle is so that way -- it's one of
4 those calls, as I had said earlier, where a supervisor
5 is required to respond. The sergeants are the ones
6 that have the WRAP. They are the ones who are required
7 to respond out there to be able to evaluate the
8 situation.

9 Q. Okay. So would it be fair to say that when
10 somebody summons you to bring the WRAP, you would come
11 to the scene and evaluate the potential need for the
12 use of the WRAP?

13 A. Yes.

14 Q. Okay. Do you have an understanding why are
15 only the sergeants allowed to have the WRAPs or are
16 allowed to give permission to use the WRAPs?

17 A. Just how our policies and procedures are
18 written.

19 Q. So you don't have any understanding of the
20 reason for that?

21 A. Just the policy and procedure of the
22 department.

23 Q. So you're just following directions?

24 A. Yes.

25 Q. Fair enough. And so from the time that --

1 underneath the person and get the straps together, is
2 there any requirement that one or more of the officers
3 observes the individual being placed into the WRAP for
4 their physical wellness or check vital signs, etc.?

5 A. Like one officer designated to?

6 Q. Yeah.

7 A. That's never been something we've ever
8 discussed. If you're working on the upper portion of
9 the body or restraint or holding the person down, then
10 that would obviously be a consideration that, you know,
11 this is going be one of your responsibilities to make
12 sure this person is doing okay.

13 Q. So it's your understanding that the person or
14 people in the vicinity of the person's head and upper
15 torso would be responsible for observing the person to
16 make sure that they're not having some kind of medical
17 emergency or medical stress?

18 A. Correct.

19 Q. But that's not something that, for example,
20 you as an acting sergeant would say, "Hey, Officer
21 such-and-such, you will be the person doing vitals"?

22 A. No.

23 Q. Okay. And if there's multiple people standing
24 in the vicinity of the person's head, how would those
25 people know who would be the person undertaking that

1 responsibility?

2 A. It would probably be discussed between the two
3 of them.

4 Q. Okay.

5 A. Or however many. In a perfect world of using
6 the WRAP, the supervisor that's on scene would be
7 standing back and taking in the overall picture of
8 what's going on and I -- if I was out there and that
9 perfect world had existed, I would be standing there
10 and being one of the people to take into account what
11 distress, if any, this person may be in.

12 Q. And is there any particular training of what
13 should occur if a person is noticed to have been in
14 medical distress?

15 A. You would want to make an alert notification
16 of your observations as soon as practical, yeah.

17 Q. Okay. And are you meaning to say you would
18 want to alert your fellow officers of those
19 observations?

20 A. Yes.

21 Q. And what -- say a person is placed in a WRAP
22 device and they are overt medical emergency, what would
23 the next step be for the perspective of the people
24 applying the WRAP?

25 A. At that point, it would be making folks aware

1 of what was going on and now the shift and focus is
2 from the restraint to the medical distress.

3 Q. Okay. So it's fair to say person noticed --
4 once somebody had noticed that the individual in the
5 WRAP was having some kind of medical emergency that you
6 would stop applying the WRAP device?

7 A. Yeah, you would end up stopping, yes.

8 Q. Okay. And once the person placed in the WRAP
9 device was having a medical emergency, would you then
10 remove the WRAP device traditionally?

11 A. It depends on how far into the process you
12 are.

13 Q. Okay.

14 A. If you have the thing fully on and they're in
15 the upright, seated position and they go into medical
16 distress, you would obviously undo portions of it to
17 the point where you are able to administrate.

18 Q. So your understanding would be that you would
19 only be expected to remove the portions that would
20 interfere with providing medical care?

21 A. Yeah.

22 Q. Okay. And would your understanding be that
23 that portion would be the upper body portion?

24 A. It would most likely be the upper body portion
25 since that's where the vital organs are at.

1 Q. Okay. Obviously, just depending on what type
2 of medical emergency the person's having?

3 A. Right.

4 Q. If they're bleeding out from their leg, you
5 would probably remove the leg portion?

6 A. Correct.

7 Q. If a person is successfully placed in a WRAP
8 and everything is closed and considered successful,
9 what do you do with the person at that point?

10 A. So a full successful WRAP, no medical
11 anything?

12 Q. Yeah, just under a perfect scenario when the
13 person's been properly detained and they're breathing,
14 speaking.

15 A. At that point, it would be the assessment
16 making sure there's no medical distress. If there's no
17 medical distress, it would be to lift the person up off
18 the ground in that seated position, placing them into
19 the backseat of the car, securing them, seat belting
20 them in, and continuing with transport.

21 Q. Okay. If a person -- and this would be I
22 guess whether the person is in the WRAP or not. Have
23 you been trained on what is called a recovery position?

24 A. In terms of a -- yeah, the first aid CPR
25 recovery position.

1 Q. And that's what I was referencing was a
2 recovery position related to medical distress or
3 medical emergencies.

4 A. Yes. It's something that's taught about,
5 yeah.

6 Q. And what do you understand the recovery
7 position is?

8 A. A person has -- I don't know. It depends on
9 what the medical distress is. You know, if they're
10 vomiting, it keeps them from aspirating and drowning in
11 their own vomit, saliva, anything along those lines.
12 It can be used for a multitude of reasons.

13 Q. What's your understanding of what the recovery
14 position is?

15 A. A person rolled over onto their side or
16 somewhat onto their side. That's the best way for me
17 to describe it.

18 Q. Okay. And is it your understanding that the
19 recovery position is something that is typically done
20 if somebody is having breathing or respiratory
21 distress?

22 A. Not necessarily.

23 Q. Is it your understanding that the -- do you
24 have any understanding about whether the recovery
25 position exists for the purpose of preventing a person

1 from laying on their back that could potentially cause
2 problems with their organs or the ability for their
3 diaphragm to expand? Do you have any understanding of
4 that being part of the purpose of it?

5 MR. ROLLAN: Objection. Calls for expert
6 opinion.

7 MS. NOLD: Q. What I'm asking is your
8 understanding. I understand you're not a doctor and I
9 understand you didn't write the training. I'm just
10 trying to understand what information you have
11 available to you as far as what, you know, the, I
12 guess, biological purpose the recovery position
13 establishes.

14 A. I don't know.

15 Q. Okay. And that's fine. You don't necessarily
16 need to know. Some officers had done personal research
17 on topics that were outside of what we would expect
18 them to know. Sometimes people know more about stuff
19 and some times people have had other train and go they
20 know more. We don't know what you know pick away in
21 there.

22 A. Right.

23 Q. Okay. Have you received any training as far
24 as if a person is having some sort of respiratory
25 distress what your response should be in your first

1 responder capacity as a police officer?

2 A. Airway, breathing, circulation and monitoring
3 each of those.

4 Q. Okay. And assuming that once you're
5 monitoring one of things, if one of those things is not
6 occurring, there's obstruction to the airway or the
7 person's not breathing --

8 A. Then you fix it.

9 Q. Correct. And what does fixing it mean?

10 A. Depends on the circumstance. Is it a choke?
11 Is the airway not tilted correctly? If you need to
12 administer breaths, it's a whole multitude of things.

13 Q. And fair to say that one of those things would
14 be calling an ambulance if they're not already en
15 route?

16 A. Yes.

17 Q. And then obviously the officers undertake
18 whatever they can medically within the course of their
19 training, whether that's CPR or applying pressure to a
20 bloody wound, or whatever you can do within the scope
21 of the tools that you have available to you, right?

22 A. Correct.

23 Q. Is it your understanding that a WRAP can be
24 used against individuals for, I would say, punitive
25 reasons? Say the person is disrespectful and rude.

1 A. That would be an inappropriate use of a WRAP.

2 Q. Okay. And so did you receive any training on
3 what would be considered inappropriate use of the WRAP?

4 A. Yes. It's defined in our policy.

5 Q. What's your understanding of what
6 inappropriate use is beyond what we just established,
7 the punitive reasons --

8 A. Just as a physical punishment. That would be
9 inappropriate.

10 Q. Okay. So back to the scene. You guys have
11 developed a plan for getting Mr. Nelson out of the car,
12 right?

13 A. We were working on them, yes.

14 Q. It sounded like you and Officer Shannon mainly
15 are developing a plan and Officer Hall is as a training
16 officer, probably just there to follow orders, to some
17 degree?

18 A. She's following along, and I'm trying to -- I
19 recall trying to get her to think of formulating a plan
20 and working to formulate the plan with us for
21 experience.

22 Q. She's not training for part of all of the
23 exercises of every call that she responds to train her,
24 to explain things to her, to become a better officer
25 going forward?

1 A. Correct.

2 Q. So what was the plan for getting Mr. Nelson
3 out of the car?

4 A. Well, the initial plan I had developed was to,
5 since Mr. Nelson was seated in the back of the car with
6 his back facing the driver's side rear door, was to
7 open up that door, and while he was still seated in the
8 car, at that point to be able to apply the handcuffs
9 while he was still seated in the car before having --

10 Q. And then in the plan, the intention, once he
11 was handcuffed, was the intention --

12 A. Was to remove him from the car and have him
13 lay down on the ground so the WRAP could be applied.

14 Q. Okay. Was there any discussion about
15 handcuffing Mr. Nelson without opening the car door --
16 window rolled down?

17 A. Not that I recall. That would have been
18 impossible to do with the car.

19 Q. It would have been impossible to roll the
20 window down and handcuff him through the bars?

21 A. There's not enough room to be able to do that.

22 Q. Okay. And do you know if -- to the best of
23 your understanding, would your arms fit through the
24 bars?

25 A. It's a complete officer safety issue. In my

1 opinion, if you get your arms through there, you can
2 get stuck, or if the person who is in the back decides
3 to go on the attack, you're stuck. They grab your arms
4 and that would -- I would never even consider that.

5 Q. So more not that it's impossible, more that it
6 would be unwise; is that more accurate?

7 A. Even sitting here just trying to think of how
8 it would even be done, I can't even formulate a plan of
9 how we would do it. So in my opinion, it would be
10 impossible.

11 Q. Okay. Fair enough. Obviously, you guys
12 didn't discuss that in any regard?

13 A. Right.

14 Q. Okay. Fair enough. And so the intention
15 obviously was just to put Mr. Nelson into the WRAP
16 device, and what were you going to do with him?
17 Assuming you successfully placed the WRAP device, what
18 was the end game on the plan? What were you going to
19 do with him?

20 A. The end game would have been to transport him
21 to St. Rose hospital on our own outside of the normal
22 protocol just because of the delay in ambulances.

23 Q. Okay. So it was the intention to go ahead and
24 go outside of protocol and self-transport him to
25 St. Rose?

1 A. Yeah because it would have served the purposes
2 of exactly what medical would have done, get him there,
3 medically cleared and in the meantime maybe an
4 ambulance could have showed up and done a transport to
5 John George or we could have discuss what else would
6 have needed to be done beyond that, but never got
7 there.

8 Q. Right. At that point when you guys were
9 putting together a plan, what was your understanding of
10 how much time had elapsed when you had first
11 responded -- Hayward PD's first response to Ironwood up
12 to that point?

13 A. I don't even recall how long it was. I just
14 know that the officers had said there were several
15 delays and that multiple ambulances had been rerouted,
16 so it was becoming excessively long.

17 Q. Okay. So you have this discussion. What
18 officers are present at this point besides Officer
19 Shannon and yourself?

20 A. Let's see. Officer McKee and I believe
21 Officer Padavana were also on scene. I wasn't having
22 any active discussion with them. I was more with the
23 training unit, with Officer Shannon and Officer Hall.

24 Q. Was it your understanding Offers McKee and
25 Padavana came in response to a call for assistance in

1 getting Mr. Nelson into the WRAP device?

2 A. They responded in case it needed to be
3 applied, yes.

4 Q. And do you recall, were you the person who
5 summoned additional units?

6 A. I had requested additional units to the scene.

7 Q. And were Officers McKee and Padavana a part of
8 the planning process for the -- that you guys had
9 discussed about getting him out of the car and into the
10 WRAP?

11 A. It was something that I had brought to Officer
12 Hall's attention to think about who would be in control
13 of arms, who would be in control of legs.

14 Q. And were Officers McKee and Padavana part of
15 the conversation? Were they given assignments with
16 that plan?

17 A. There was nothing ever specific put in who was
18 going to do what at the time. I was trying to work on
19 that with her, but I don't think anything was ever
20 fully put together.

21 Q. Okay. So it sounds like you had started to
22 put together a plan, but you guys didn't ultimately
23 come with a plan and then begin the plan; is that
24 correct?

25 A. I'm sorry.

1 Q. Let me strike that question. Ig sounds like
2 you guys started to create a plan about who was going
3 to do what, but it sounds like you didn't complete the
4 plan?

5 A. I think it became more along the lines of
6 being senior officers and having used the WRAP before
7 and the understanding of it and just kind of going on
8 auto pilot.

9 Q. Okay. So then at some point the plan became
10 initiated, correct?

11 A. Yes.

12 Q. Okay. And then what happened next?

13 A. Officer McKee opened up the back door.
14 Mr. Nelson stepped out, and I believe it was Officer
15 Shannon had one arm. Officer McKee had the other, and
16 they were preparing to handcuff him.

17 Q. Was that your understanding it was part of the
18 plan that Officer McKee was going to open the car door?

19 A. It wasn't what I was expecting, but it's not
20 unreasonable. You've got to open the door.

21 Q. Sure. From what understand, I believe Officer
22 Hall and maybe Officer Shannon were trying to get
23 Mr. Nelson to put his hands behind back so that they
24 could presumably handcuff him while he was still seated
25 in the car, and then the door opened. Is that your

1 understanding, that Officer McKee opened the door on
2 the other side?

3 A. I just recall Officer McKee standing there and
4 Mr. Nelson stepping out of the car.

5 Q. Okay. And when Mr. Nelson -- when Officer
6 McKee opened the door and Mr. Nelson got out of the
7 car, were you startled by Mr. Nelson getting out of the
8 car?

9 A. No.

10 Q. Did you have any reason to believe that Mr.
11 Nelson kicked his way out of the car or escaped in some
12 way?

13 A. No.

14 Q. And when Mr. Nelson got out of the car, did
15 you see him threaten anybody?

16 A. I don't recall what, if anything, he was
17 saying.

18 Q. Were you ever made aware of Mr. Nelson making
19 any threats against anybody upon getting out of the
20 car?

21 A. I don't recall.

22 Q. To your knowledge, did Mr. Nelson make any
23 threats against you?

24 A. Against me.

25 Q. Yes.

1 A. No.

2 Q. To your understanding, did Mr. Nelson spit on
3 anybody?

4 A. No.

5 Q. Did Mr. Nelson head butt anybody?

6 A. No.

7 Q. Did Mr. Nelson punch anybody?

8 A. No.

9 Q. Did Mr. Nelson kick anybody?

10 A. No.

11 Q. When Mr. Nelson got out of the car, did he
12 appear to be compliant?

13 A. Define "compliance," if you don't mind.

14 Q. Sure. Was he responding to the command when
15 he was told to get out of the car?

16 A. I know one command that I can recall being
17 given and that was one I gave.

18 Q. What command did you give Mr. Nelson?

19 A. I told him to get down on his knees.

20 Q. Okay. And when you told Mr. Nelson to get
21 down on his knees, where was he located?

22 A. He, just prior to that, was slightly leaning
23 against the right rear quarter panel, right rear fender
24 of the car, and I had made mention to have him step
25 away so that way we were able to get him laid down onto

1 the ground. After the officers had removed him from
2 the car or near the back of the car, that's when he,
3 Mr. Nelson, literally looked over to me, and I remember
4 very specifically locking eyes with him and trying to
5 use that moment to gain the compliance and give him the
6 command, "Get down on your knees." And I don't recall
7 how many times I had to give it, but I know that he
8 did go to his knees because I remember saying, when I
9 reviewed my camera footage, "Okay. There you go."

10 Q. In that regard, did you consider him to be
11 compliant with the orders?

12 A. We were getting some compliance, yes.

13 Q. Did you take into consideration that, while
14 asking him to get on the ground, his physical stature
15 and maybe a delay in getting himself to his knees
16 because of his large body structure?

17 A. I gave the command. I know I gave the command
18 more than once, and that's not uncommon, so you end up
19 getting the compliance -- or I got the compliance to go
20 to his knees, and okay cool.

21 Q. And he did. At what point did you consider
22 Mr. Nelson consider to be resistive?

23 A. Prior to him going to his knees, as they were
24 trying to walk him away from the back of the car, I
25 remember him twisting his upper body back and forth, so

1 it wouldn't be full-on compliance.

2 Q. Okay. Have you ever heard the term "walking
3 resistance"?

4 A. Oh, yeah.

5 Q. Is that what you consider walking resistance?

6 A. Walking resistance would involve your legs.

7 Q. Okay. But he was -- he did take steps, he did
8 walk during that?

9 A. Yes.

10 Q. To get to the point where he could lay himself
11 down on the ground?

12 A. Yes. He wasn't drugged.

13 Q. Right. I would say there are videos that give
14 various perspectives -- from your perspective we have
15 seen the 360. So Mr. Nelson got down onto his knees,
16 correct?

17 A. Correct.

18 Q. And then what happened next?

19 A. He was placed down onto his stomach and face
20 down onto the ground so the ankle strap and leg portion
21 of the WRAP was able to become applied.

22 Q. Okay. And where were you at this time in
23 proximity to Mr. Nelson?

24 A. I was standing back giving the officers room
25 so they were able to get Mr. Nelson onto the ground,

1 and because of the location that he was being placed
2 onto the ground, I had to go and retrieve the portions
3 of the WRAP device that were on the driver's side of
4 the car.

5 Q. And at this point then, was Mr. Nelson
6 handcuffed?

7 A. He was handcuffed at some point, yes. I can't
8 recall exactly at what point the handcuffs were
9 applied.

10 Q. But you did not participate in his
11 handcuffing?

12 A. No.

13 Q. Did you know who did?

14 A. No.

15 Q. So you went and grabbed the components for the
16 WRAP device, and at that point, you returned to where
17 Mr. Nelson was located?

18 A. Correct.

19 Q. At that point, do you recall if he was
20 handcuffed?

21 A. He might have been. I can't recall exactly.

22 Q. Okay. And where were the various officers in
23 relationship to Mr. Nelson's body?

24 A. I remember two up top and I remember Officer
25 Padavana being down at the legs, and after reviewing

1 all the camera footage, it was Hall and Shannon were
2 the ones that I remember at the upper body.

3 Q. And then you said Officer Padavana down at his
4 legs?

5 A. Yes, he was helping with the legs.

6 Q. Who else was down at Mr. Nelson's leg?

7 A. I was.

8 Q. Okay. So at some point you went down by Mr.
9 Nelson's legs?

10 A. Correct.

11 Q. And at some point, did officer Padavana put
12 Mr. Nelson into a figure-four leg lock?

13 A. Yes, he had him in a figure four.

14 Q. Okay. And did he have him in the figure four
15 when you brought over the WRAP device?

16 A. Yes.

17 Q. Did you ask Officer Padavana or did he on his
18 own accord remove Mr. Nelson from the figure four to
19 facilitate the WRAP being placed?

20 A. Yes. The figure-four hold was removed so we
21 could straighten his legs out.

22 Q. Because obviously you couldn't put him in a
23 WRAP if the figure-four wasn't applied?

24 A. Correct. The WRAP is designed to be applied
25 to straight legs.

1 Q. And to your best estimate, how long was Mr.
2 Nelson held in the figure four?

3 A. I'm not sure. My attention wasn't on
4 Mr. Nelson at that time; I was retrieving the WRAP
5 portions.

6 Q. Okay. And at that point, you guys began to
7 try to apply the WRAP device?

8 A. That's correct.

9 Q. Okay. To the best of your understanding, what
10 was going on with Mr. Nelson's upper body?

11 A. I do not remember. I don't know.

12 Q. Were you in a position where you weren't able
13 to see his upper body?

14 A. I was focused on getting his legs into the
15 ankle strap, getting his ankles cross so the ankle
16 strap could be applied, and that was my job. That was
17 my focus. Everything else at that time, I wasn't
18 paying attention to. I was relying on my partners to
19 be able to execute their job.

20 Q. Okay. I'm not sure -- do you recall making a
21 statement about, you know, when you were down Nelson's
22 legs, having, I guess what we refer to like a tunnel
23 vision, just focused in, sort of not cognizant what was
24 going on besides Mr. Nelson's legs?

25 A. That's a fair assessment. I'm working on the

1 lower portion of his body, and my focus at this time is
2 to get his legs straightened and the ankles crossed.

3 Q. Okay. So at that point, you and Officer
4 Padavana began trying to get Mr. Nelson's legs into the
5 WRAP?

6 A. Correct.

7 Q. Okay. At any point, was Officer Shannon
8 assisting you with trying to get Mr. Nelson's legs into
9 the WRAP device?

10 A. Not that I recall. Not at that moment.

11 Q. At any point, did Officer Shannon try to
12 assist in getting Mr. Nelson's lower portion into the
13 WRAP?

14 A. I don't recall.

15 Q. Do you recall during this scenario seeing what
16 Officer Shannon was doing at all?

17 A. I just remember him being up on the upper end
18 of Mr. Nelson's body. What exactly he was doing, I
19 can't recall.

20 Q. You don't recall seeing Officer Shannon with
21 his knee on Mr. Nelson's back, sort of leaning over his
22 body towards the lower portion of his body?

23 A. I don't remember that at all.

24 Q. Are you familiar with the term called
25 "positional compression," sometimes referred to as

1 "positional asphyxiation"?

2 A. Yes.

3 Q. What's your understanding, based on your
4 training or your experience, what that is?

5 A. Just having -- the body being in a position
6 where it makes it hard to breathe.

7 Q. Okay. Is it your understanding based on your
8 training and experience that applying pressure to
9 certain portions of a person's back or upper body can
10 restrain their ability to breathe?

11 A. Yes.

12 Q. And what's your understanding of what portion
13 of the person's back you're supposed to avoid to
14 prevent yourself from restricting their ability to
15 expand their lungs?

16 A. I don't think I can give you an exact area.

17 Q. Okay. Well, based on your training, what are
18 the areas of a person's back that you avoid to avoid
19 causing that person to potentially have respiratory
20 problems?

21 A. In my opinion, any portion of the person's
22 upper body if they are on the ground, any weight
23 applied can cause a distress. Of course, obviously,
24 the main area would be direct pressure to the center of
25 the back, I would say, but if you are held down on the

1 ground and downward pressure is applied, it would cause
2 some type of distress, however slight.

3 Q. Okay. Is your understanding based on your
4 training that you're not supposed to, for example,
5 kneel in the middle of somebody's back while they're
6 handcuffed down on the ground?

7 A. It would depend on the circumstances.

8 Q. To your knowledge, have you ever received any
9 training that advised you not to kneel in the middle of
10 somebody's back while they were handcuffed faced down
11 on the ground?

12 A. I don't recall ever being specifically given
13 that type of training.

14 Q. Okay. Do you recall any training that was
15 specific to positional asphyxiation?

16 A. Just in, like, a classroom setting of talking,
17 yeah.

18 Q. Okay. Do you remember what they said, sort of
19 what the key points were, the take aways?

20 A. You don't want to keep somebody in a position
21 where they're breathing is restricted for an undue
22 amount of time.

23 Q. And do you recall any sort of guideline of
24 what amount of time that would be?

25 A. No.

1 STATE OF CALIFORNIA)
) ss.
2 COUNTY OF CONTRA COSTA)
3

4 I, Angelica R. Gutierrez, a licensed Certified
5 Shorthand Reporter, duly qualified and certified as such
6 by the State of California;

7 That prior to being examined, the witness named in
8 the foregoing deposition was by me duly sworn to testify
9 to the truth, the whole truth, and nothing but the truth;

10 That the deposition was by me recorded
11 stenographically at the time and place first herein
12 mentioned, and the foregoing pages constitute a full,
13 true, complete and correct record of the testimony given
14 by the said witness;

15 That I am a disinterested person, not being in any
16 way interested in the outcome of said action, nor
17 connected with, nor related to any of the parties in said
18 action, or to their respective counsel, in any manner
19 whatsoever.
20

21 DATED: December 5, 2017
22

23 ___/Angelica R. Gutierrez_____

24 ANGELICA R. GUTIERREZ, CSR No. 13292
25